

IN THE CHANCERY COURT FOR LEWIS COUNTY, TENNESSEE

IN RE: SENTINEL TRUST COMPANY )

) No. 4781

10:21  
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FILED

AUG 18 2004

PM

JANET WILLIAMS, CLERK & MASTER

BY: Selena Wix D.C.

ORDER

Chancellor Health Partners, Inc., et.al. has filed a motion requesting the Court to allow it to transfer property and records to a successor trustee, the Bank of Oklahoma, which it has named as successor trustee. Chancellor contends pursuant to its trust indenture agreements where Sentinel served as the trustee that it has a contractual right with the written consent of the borrower to appoint a successor trustee. Chancellor further contends that the Receiver, who "stands in the shoes" of Sentinel, does not have the authority to object to the transfer since Sentinel cannot object.

The Commissioner and the Receiver take the position that T.C.A. § 45-2-1504 (c) provides them with the requisite authority to interfere with this contractual provision.

As soon after the commencement of liquidation is practical, the commissioner shall take the necessary steps to terminate all fiduciary positions held by the state bank and take such action as may be necessary to surrender all property held by the bank as fiduciary and to settle its fiduciary accounts. Such fiduciary accounts may be transferred by the commissioner to another qualified corporate fiduciary as determined by the commissioner and notice of such transfer must be given by registered mail to the parties by the transferring corporate fiduciary. § 45-2-1504 (c).


This Court finds that T.C.A. § 45-2-1504 (c) controls this issue. A statute that affects the construction, enforcement or discharge of a contract becomes a part of that contract at its inception. Liquidation of United American Bank of Knoxville v. F.D.I.C., 2000 WestLaw

145078 (Tenn. Ct. App.); Robbins v. Life Insurance Company, 89 S.W. 2d 340, 341 (Tenn. 1936).

It is THEREFORE ORDERED and DECREED that Chancellor's motion to transfer property and records to its successor trustee is denied. Moreover, Chancellor's purported transfer to the Bank of Oklahoma is voided. The Commissioner is directed pursuant to the statute to take the necessary steps to terminate all fiduciary positions as soon as practical, including transferring fiduciary accounts to another qualified corporate fiduciary as determined by the Commissioner.

It is so ORDERED.

Entered this 16 day of August, 2004.

  
R.E. LEE DAVIES  
CHANCELLOR